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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,518	01/11/2002	Kenneth R. Spencer SR.	00-1303	8268

7590 11/27/2002

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EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
3643	5

DATE MAILED: 11/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/043,518	Applicant(s) SPENCER et al.
	Examiner KURT ROWAN	Art Unit 3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Oct 11, 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 20 is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

6) Other: _____

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DETAILED ACTION

Claim Objections

1. Claim 13 is objected to because of the following informalities: claim 13 ends in a “,”. It is not clear if part of the claim has been omitted. Appropriate correction is required.

Claim Rejections - 35 U.S.C. § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Aragona for substantially the same reasons stated in the first Office Action.

The patent to Aragona has been discussed in the first Office Action and shows the vibrating assembly 16 for vibrating a first end of the rod (that being distal from the handle portion) as shown in Fig. 1 noting that the tip of the rod moves as shown in phantom.

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Claim Rejections - 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aragona as applied to claim 1 above, and further in view of Yasui for substantially the same reasons stated in the first Office Action.

6. Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aragona as applied to claim 1 above, and further in view of Shepherd.

The patent to Aragona shows a vibrating fishing rod as discussed above, but does not show the vibration assembly positioned within the fishing pole. The patent to Shepherd shows a fishing rod having a motor 16, a power supply 18, 20, and a vibration assembly 22 positioned within the fishing pole. Since the motor rotates the line, a periodic vibration will be imparted to the rod particularly at the tip end such as adjacent spring 28. In reference to claim 8, it would have been obvious to locate the vibration assembly of Aragona within the fishing pole as shown by Shepherd to make the unit compact. In reference to claims 9-12, 14, see the rejection as stated in the first Office Action. In reference to claim 13, Shepherd shows the vibration means 22 mounted within

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the handle section of the fishing pole since the line 22 is attached to the motor 16 at a point within the handle 14 as shown in Fig. 1.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aragona as applied to claim 1 above, and further in view of Daniels for substantially the same reasons stated in the first Office Action.

Allowable Subject Matter

8. Claim 20 is allowed because it would not have been obvious to combine Aragona, Yasui, Shepherd or Yankaitis, and Daniels since there is no motivation for the entire combination except from applicant's disclosure.

Response to Arguments

9. Applicant's arguments filed Oct 11, 2002 have been fully considered but they are not persuasive. Applicant argues that Aragona does not show the vibrating assembly for vibrating the first end of the rod which is the end distal to the handle portion, but Aragona does vibrate the tip end of the rod as shown in Fig. 1. It should be pointed out that jigging is a vibration. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., as to the cast and reel style of fishing) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van*

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Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Also, claim 1 does not preclude the exposed arm and linkage of Aragona.

10. Applicant's arguments with respect to claims 8-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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12.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KURT ROWAN whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Kurt Rowan

KURT ROWAN

PRIMARY EXAMINER

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November 26, 2002